

What role do ratepayers' groups play?

The OMB carefully considers comments made by the ratepayers' groups. When they represent themselves as "community spokespersons", the OMB usually tries to find out how representative they are.

A community association or ratepayers' group does not need to be incorporated to be added as a party. However, it needs to be incorporated if it wants to file an appeal in the name of the group. If your group has not been incorporated, a notice of appeal may be made in the name of an individual who is a member of the association or the group on its behalf.

What costs are involved in an OMB hearing?

The OMB charges a filing fee for certain kinds of appeals. Contact your municipal clerk, the approval authority or the OMB for the fee schedule. In addition, the OMB may also award costs at the end of the hearing. This depends on the circumstances of the dispute or when, for example, the appellant fails to appear at the hearing.

Do you need a lawyer?

If you intend to launch an appeal, you should be well prepared for your hearing and ready to present detailed information in support of your views. Depending on the complexity of the issue, you may wish to hire a lawyer to represent you.

What are the powers of the OMB?

When a matter is appealed to the OMB, the board takes the place of the approval authority and can make any decision that the approval authority could have made. For example, if an official plan amendment is being considered, the board takes the place of the approval authority and can approve, change or refuse the amendment.

After the hearing has been held, the OMB may either implement its decision directly, or order the usual approval authority to do so.

The OMB has expanded powers to dismiss an appeal without a hearing based on a number of grounds:

- Appeal is not based on any apparent land use planning grounds
- Appeal is not made in good faith or is frivolous or vexatious, or is made only for the purpose of delay
- Appellant did not make oral submissions at a public meeting or provide written submissions to the municipal council/approval authority before a decision was made
- Appellant has not provided written reasons for the appeal
- Appellant has not paid the fee required by the OMB
- Appellant did not respond to the OMB's request for further information within the time specified by the OMB

Can you contact the OMB directly?

Yes. The OMB's Information Officer will be glad to answer any questions about appeals and hearings. Call (416) 326-6800. You may also write the OMB at 655 Bay Street, 15th Floor, Toronto, ON M5G 1E5.

How can you find out more?

For more information about land use planning in your community or for copies of the Citizens' Guides, contact your municipal clerk or planning department, or your nearest Ministry of Municipal Affairs and Housing office:

Provincial Planning Services Branch
(416) 585-6014
Toll Free : 1-800-935-0696
Fax: (416) 585-4245 or 585-4006

Planning Policy Branch
(416) 585-6235
Fax: (416) 585-6870

Regional Operations Branch - Toronto
(416) 585-7296
FAX: (416) 585-7292

Eastern - Kingston
(613) 548-4304
Toll Free : 1-800-267-9438
FAX: (613) 548-6822

Southwestern - London
(519) 673-1611
Toll Free : 1-800-265-4736
FAX: (519) 661-1677

Northeastern - Sudbury
(705) 564-0120
Toll Free : 1-800-461-1193
FAX: (705) 564-6863

Northwestern - Thunder Bay
(807) 475-1651
Toll Free : 1-800-465-5027
FAX: (807) 475-1196

Central - Toronto
(416) 327-0017
Toll Free : 1-800-668-0230
FAX: (416) 327-0980

Copies of the Guides may also be obtained from Publications Ontario (416) 326-5300 or 1-800-668-9938

Visit the Ministry's Internet site at:
www.mmah.gov.on.ca



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Ontario Municipal Board



In a series
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Introduction

Land use planning affects almost every aspect of life in Ontario. It helps decide where in our communities homes and factories should be built; where parks and schools should be located; and where roads, sewers and other essential services should be provided.

Land use planning means managing our land and resources. It helps each community to set goals about how it will grow and develop and to work out ways of reaching those goals while keeping important social, economic and environmental concerns in mind. It balances the interests of individual property owners with the wider interests and objectives of the whole community.

Good planning leads to orderly growth and the efficient provision of services. It touches all of us and helps us to have the kind of community we want.

But often we don't see how it affects our lives and property each day. And it often seems confusing.

This series of Citizens' Guides has been prepared to help you understand how the land use planning process works in Ontario. They are intended to give general information only and are not an interpretation of the Planning Act or any other act. You should refer to the legislation for specific requirements and procedures. The titles of the guides are:

1. The Planning Act
2. Official Plans
3. Zoning By-Laws
4. Subdivisions
5. Land Severances
6. Ontario Municipal Board
7. Northern Ontario
8. Building Permits
9. One-Window Provincial Planning Service/
Municipal Plan Review
10. Making Mediation Work For You

What is the Ontario Municipal Board?

The Ontario Municipal Board (OMB) is an independent administrative tribunal responsible for hearing appeals and deciding on a variety of contentious municipal matters.

The OMB is similar to a court of law, but with less formality. Board members are appointed by the Ontario Cabinet and include lawyers, accountants, architects, planners and public administrators. The OMB operates under the Ontario Municipal Board Act, as well as its own rules of practice and procedure. It reports administratively to the Minister of Municipal Affairs and Housing.

This guide focuses on the OMB's role in dealing with land use planning matters under the Planning Act. Its main role in community planning is to hold public hearings on:

- land use planning issues, such as zoning by-laws, land severances and minor variances
- planning documents and applications, such as official plans and subdivisions

Why is there an Ontario Municipal Board?

People don't always agree on how their communities should grow in the future. Disputes often arise over general land use planning issues, such as where industrial development should be located or what types of municipal services should be provided in the community.

When people are unable to resolve their differences on community planning issues, or have disputes with their municipal council that can't be settled, the OMB provides that needed public forum. It can assemble the facts and make decisions in light of:

- environmental, social and economic considerations
- provincial interest
- rights of the individual citizens
- the best interests of the community as a whole

Why should you participate in the land use planning process?

People can effectively express their individual or group interest in a planning matter by participating early in process. This is important because it offers an opportunity for information exchange, especially if there are conflicting perspectives. Municipal councils will attempt to deal with concerns or disputes before making decisions on planning matters. Alternative dispute resolution techniques (mediation, negotiation and conciliation) can be used by a municipal council in resolving the matter locally and avoiding a hearing at the OMB.

The OMB has the power to dismiss an appeal without holding a hearing if the person or public body that launches an appeal has not made oral and/or written submissions before municipal council makes a decision.

How do you appeal to the OMB?

If you are considering appealing a planning matter to the OMB, you should be aware of certain requirements:

- Appeals must be made within time limits. In most cases, appeals must be made no later than 20 days after the day the council/planning board or approval authority gives its notice of decision on the planning proposal.
- Your appeal to the OMB should be made to the council/planning board or approval authority which gives the notice of decision. In most cases, they are required to send your appeal to the OMB within 15 days after the appeal period expires.
- You should cite the portion of the decision you are appealing. For example, in an appeal of a zoning by-law or official plan matter, you should specify whether you are appealing part of or all of the zoning by-law or official plan; in an appeal of a draft plan of subdivision, you should specify

whether you are appealing the decision to approve, the conditions of draft approval or the lapsing provision.

- Written reasons for your appeal must be provided.
- The appeal fee required by the OMB under the Ontario Municipal Board Act must be provided. For more information on the OMB fee schedule, contact your municipal clerk, the approval authority or the OMB.

To find out more about the specific appeal process for each type of planning application, see the guides to Official Plans, Zoning by-laws, Subdivisions, and Land Severances, Nos. 2, 3, 4 and 5 of the series. Discuss your plan to appeal with the municipal clerk or local planning office.

How will you be informed about an OMB hearing?

Written notice of a public hearing must be given in advance, usually through local newspapers or by mail. Depending on the type of application, the OMB will give notice itself or will require that the person initiating the appeal or the municipality provide notice, subject to the OMB's directions.

For most planning applications, notice is sent out at least 35 days in advance of the hearing. However, in cases involving appeals against a municipal council's refusal of an official plan amendment or rezoning application, a 60-day notice is usually required. While the scope and method of notice has been standardized by the OMB, the board may direct more or less notice of a particular proceeding if it feels this is appropriate. Usually, notice is given by direct mailing to those affected, although a general newspaper notice is sometimes acceptable.

What are the alternative ways that the OMB may use to deal with appeals?

The OMB has been exploring various ways of improving its effectiveness and efficiency by introducing alternatives to full public hearings. Also, it has new procedures and formats for conducting hearings. In this way, people may avoid or reduce the expense and formality involved in a formal hearing.

Some of the OMB's practices are:

- Telephone conferencing is used where appropriate.
- Mediation is used to bring together parties in dispute to see if they can settle the matter with the guidance of a mediator. Usually, mediation takes place within three months of the receipt of the appeal. It is often done through telephone conferencing. If not completely successful, a shortened hearing is scheduled soon afterward. This greatly decreases waiting time for hearings.
- Pre-hearing conferences are held in advance of a full hearing to better organize complicated hearings, to shorten the hearing time required and to make hearings more efficient by:
 - identifying the parties and participants
 - narrowing the issues
 - establishing the rules for pre-filing of documents
 - setting out the order and presentation of evidence
- Informal or "short" hearings about one hour in duration are conducted in a less-formal atmosphere. Often, short hearings are placed on a "list" of cases from one geographic area, all scheduled to follow each other on the same day. These are less-complex cases, selected on the basis of the limited number of issues and parties involved.

- Regional centre hearings are held for those areas of the province with a backlog of appeals. Cases selected include those that require pre-hearing conferences, motions, or two days or less of hearing time.

How is a formal OMB hearing conducted?

First, documents, data and relevant information are sent to the OMB by the municipality, approval authority or planning board, and made available for public review in advance of the hearing.

Next, the hearing date is scheduled and a location established, such as a municipal office or community centre, which is easily accessible to local citizens.

The hearings are conducted by one or more appointed members of the OMB and are similar to a court of law. Hearings usually follow a set pattern of courtroom practice, according to the rules of natural justice. If the hearing is complex, it may involve lawyers, many witnesses and lengthy representations.

In addition to local residents and concerned citizens, expert witnesses in land use planning and other disciplines are often called on to testify about the specifics of a contentious application. All witnesses are placed under oath or affirmed, but OMB members go out of their way to put local residents at ease by treating them in a relatively informal manner.

A hearing can be as brief as a couple of hours if it involves few witnesses and only one or two planning issues. But in more complex situations, the hearing could last several days, sometimes several weeks.